

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT CURTIS,

Plaintiff,

v.

STEVE SHAPIRO, et al.,

Defendants

No. C-05-3883 MMC

**ORDER CERTIFYING APPEAL NOT
TAKEN IN GOOD FAITH; DENYING
PLAINTIFF'S APPLICATION TO FILE
APPEAL IN FORMA PAUPERIS**

Before the Court is plaintiff Robert Curtis's ("Curtis") application to proceed in forma pauperis, filed November 23, 2005. As Curtis, on November 14, 2005, filed a notice of appeal of the Court's October 26, 2005 order dismissing the instant action with prejudice, the Court construes the instant application as a motion to proceed in forma pauperis on appeal.

The Federal Rules of Appellate Procedure require that such motion be decided by the district court. See Fed. R. App. 24(a)(1). A party seeking to proceed in forma pauperis on appeal must file an affidavit showing the party's "inability to pay or to give security for fees and costs," claiming "an entitlement to redress," and stating "the issues that the party intends to present on appeal." See Fed. R. App. P. 24(a)(1). Curtis has not submitted an affidavit claiming an entitlement to redress and stating the issues he intends to present on appeal.


1 Even if Curtis had complied with Rule 24(a)(1), however, the Court would deny his
2 application. Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken in forma
3 pauperis if the trial court certifies in writing that it is not taken in good faith.” See 28 U.S.C.
4 § 1915(a)(3). “Good faith” requires that the applicant seek review of an issue that is not
5 frivolous. See Coppedge v. United States, 369 U.S. 438, 445 (1962).

6 For the reasons set forth in the Court’s October 26, 2005 order dismissing the
7 instant action, Curtis may not evade the dismissal of actions he filed in the District of
8 Oregon by refiling an essentially identical complaint in this Court.

9 Accordingly, the Court hereby CERTIFIES that Curtis’s appeal is not taken in good
10 faith and, consequently, his application to file his appeal in forma pauperis is hereby
11 DENIED.

12 **IT IS SO ORDERED.**

13 Dated: November 28, 2005



MAXINE M. CHESNEY
United States District Judge